



Guide for Creating Proposed Building Standards



**For state agencies developing building standards to be submitted
to the California Building Standards Commission
for Publication in Title 24, California Code of Regulations**

Prepared by the California Building Standards Commission

September 2013

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Introduction and Purpose

The California Building Standards Commission (CBSC) has prepared this document in hopes of assisting state agencies responsible for preparing rulemaking documents proposing building standards for publication in Title 24. Adherence to these guidelines and the referenced state laws and regulations will help ensure adoption or approval by the CBSC and streamline the CBSC's staff work to prepare the documents for the CBSC's website, Code Advisory Committees, CBSC public meetings to consider approval or adoption, and the publication process. Additionally, consistency among rulemaking documents created by different agencies will assist the CBSC and interested public.

Note: For those new to the rulemaking process, it may be helpful to review our *Glossary of Term* available on the CBSC website <http://www.bsc.ca.gov/>. Find this feature after selecting the *Education* tab at the top of the page.

Application

These guidelines apply to the rulemaking file for building standards, including but not limited to the Notice of Proposed Action (NOPA), Express Terms (ET), Initial Statement of Reasons (ISOR), and the Final Statement of Reasons (FSOR), and CBSC required forms. These are rulemaking documents to be developed by a state agency for submittal to the CBSC for public review, hearing, adoption, approval and publication in Title 24, California Code of Regulations.

Building standards as defined in Health and Safety Code Section 18909, must be located in Title 24, and no other title of the California Code of Regulations, unless specifically authorized by other state law.

Related State Laws and Regulations

The following state laws and regulations relate to the rulemaking process and should be studied before attempting to propose building standards.

State Law:

- California Building Standards Law, in Health and Safety Code, Division 13, Part 2.5, commencing with Section 18901. This body of state law governs the activities of the CBSC, state adopting and proposing agencies, and the rulemaking process. Sections 18928 through 18938 of the Health and Safety Code establish requirements for the development and adoption of building standards under the review authority of the CBSC. Several sections reference provisions of the Administrative Procedures Act in the Government Code to be discussed next.

Note: The acronym HSC will be used in place of title Health and Safety Code hereafter.

- Administrative Procedures Act, in Government Code, Division 3, Part 1, Chapter 3.5, commencing with Section 11340. Whenever the California Building Standards Law, such as HSC 18930 and 18935, references provisions within the APA, those referenced provisions apply to the building standards rulemaking process.

Note: The acronym APA will be used in place of title Administrative Procedures Act in the California Government Code.

State Regulations:

- The CBSC has adopted regulations regarding rulemaking in Article 4, of Chapter 1, Part 1, Title 24, California Code of Regulations, commencing with Section 1-401. Article 4 includes requirements for developing and submitting rulemaking documents to the CBSC for public review and publication.

Note: The acronym CBSCR will be used in place of title California Code of Regulations, Title 24, Part 1, Chapter 1, adopted by the Building Standard Commission.

Authority of the CBSC

The authority and mandates for the CBSC are found in the California Building Standards Law discussed previously. Any building standard developed by a state agency must be submitted to the CBSC for adoption or approval, and publication in the California Building Standards Code (CCR, Title 24), per HSC Section 18930(a) and Government Code (GC) Section 11343(f). In carrying out the responsibilities, the CBSC performs these functions and activities.

- Approves hearing dates proposed by the state adopting agencies.
- Conducts the meetings of the Coordinating Council established by HSC 18926 (see the “About BSC” tab at the CBSC website for more about the Coordinating Council).
- Conducts Code Advisory Committee meetings.
- Makes proposed building standards available to the public and encourages public participation.
- Conducts public meetings to consider proposed or adopted building standards
- Approves or adopts building standards.
- Arranges for the publication of approved and adopted building standards for inclusion in Title 24 and makes the building standards available to the public.

Adopting and Proposing Agencies

Do you know if your state agency is an adopting or proposing agency? It is very important to understand the difference. It governs how your rulemaking project will be conducted. In short, the state proposing agencies must submit proposed building standards to the CBSC. The CBSC oversees the public comment period and public meetings to consider building standards, and adopts or rejects the proposed building standard. Examples of state proposing agencies include the Department of Housing and Community Development, Division of the State Architect, Office of the State Fire Marshal, and others.

A state adopting agency has authority to develop and conduct their own public comment periods and hearings to adopt their proposed building standards. Their adoptions must

be submitted to the CBSC for approval and publication in Title 24. The CBSC authority to approve adoptions by state adopting agencies is limited to verifying that the adoption process was carried out in compliance with the HSC and APA. Examples of state adopting agencies include the California Energy Commission, State Historical Building Safety Board, Board of State and Community Corrections, Department of Food and Agriculture, and others.

Additional References:

- Section 1-103 (Definitions) in Part 1, California Administrative Code, of Title 24.
- HSC Section 18930(b).
- HSC Sections 18949.1 through 18949.7.

Hearing Date Approval

HSC Section 18935(b) and CBSCR Section 1-411, require a state adopting agency to obtain the CBSC's approval of the date, time and location for a public meeting in advance of conducting a public meeting regarding building standards. This requirement is needed to assure public participation by eliminating conflicting state agency public meeting dates. This may be accomplished by the state adopting agency submitting a proposed Notice of Proposed Action (NOPA) listing the proposed public meeting date, time and location, to the CBSC for review and approval as required by HSC Section 18935(a).

Note: The stated requirement applies to only state adopting agencies and not state proposing agencies. This matter is discussed above in *Adopting and Proposing Agencies* above.

Code Adoption Cycles and Exceptions

There are different code adoption cycles and some other means for adopting building standards that will determine the complexity and materials required for adoption.

Triennial Code Adoption Cycle: As the name implies, the Triennial Code Adoption Cycle occurs on a three-year interval. The primary purpose is to adopt the latest editions of the model codes referenced in HSC Sections 17922 and 18938, which are published by the private code development organizations (ICC, IAPMO, NFPA) on a three year cycle and used as the basis for Parts 2, 2.5, 3, 4, 5, 9, and 10. The requirement in HSC Section 18942 is for the CBSC to publish a new edition of the California Building Standards Code in Title 24 every three years. HSC Section 17922 (b), (HSC Division 13, Part 1.5, known as the State Housing Law), establishes that the most recent editions of the identified model codes will be effective within one year of their publication date, in the absence of adoption by regulatory action. HSC Section 18928(a) requires that when a model code or national standard is to be adopted, the most recent edition of the model code or national standard shall be adopted.

Intervening Code Adoption Cycle: The Intervening Code Adoption Cycle is required by HSC 18929.1 and 18942 to occur between the triennial cycles and is to result in new or amended building standards, or the repeal of existing building standards, in the current edition of Title 24. The amendments are published in the form of Supplement pages (on blue paper) to add new pages, or replace existing pages of Title 24.

Reference: HSC Sections 18928, 18929 and 18929.1

Historical Note. Legislation of 2010 (AB 1693, Chapter 145 of the Statutes of 2010) amended the California Building Standards Law (HSC Sections 18929.1, 18934.8 and 18942), to eliminate the Annual Code Adoption Cycle. Previous to this legislation, two annual code adoption cycles could occur between each triennial code adoption cycle. This legislation was in recognition that the time required to complete a code adoption cycle was generally more than one year in duration. Thus, the CBSC was starting a new cycle before the previous cycle was completed. This meant that at times the CBSC was administering two separate code adoption cycles. The legislation created the Intervening Code Adoption Cycle to occur between triennial cycles.

Cycle Start Dates: The CBSC issues a written announcement addressed to the Director, Chief, or other appropriate managing position of each adopting and proposing agency 180-days before a Triennial or Intervening Code Adoption Cycle. The letter is a requirement of CBSCR Section 1-405, and it establishes a date by which the CBSC will accept and include proposed building standards and amendments for the subject cycle. The notice will also be provided to the designated state agency representatives to the CBSC Coordinating Council.

Emergency Building Standards: Emergency building standards may be proposed at any time, or may be incorporated in an existing triennial or intervening code adoption cycle. There are some additional and specific requirements for proposed emergency building standards. An agency contemplating emergency building standards shall communicate with the CBSC before actually starting the rulemaking. Additionally, APA Section 11346.1 (b) provides strict conditions for emergency adoptions.

References:

- HSC Sections 18913, 18937, and 18938.
- Government Code Section 11346.1 and 11346.5 within the Administrative Procedures Act (APA), with references to other provisions of the APA.
- CBSCR Section 1-417 in Title 24, Part 1, The California Administrative Code, Chapter 1, Article 4.

Model Code Emergency Amendments: When a private code organization adopts an emergency amendment to a model code that is currently adopted as the basis for a Part of Title 24, that amendment has no effect until adopted by the CBSC. CBSCR Section 18934.8 authorizes the CBSC to conduct an emergency rulemaking to adopt the emergency model code amendment. This rulemaking may be separate from a triennial or intervening code adoption cycle.

Reference: HSC Section 18934.8 for details and time frames that are substantially different than for other adoptions.

Change without Regulatory Effect: CBSCR Section 1-421 was adopted by the CBSC to allow the CBSC and the state adopting and proposing agencies to make editorial corrections and revisions to the current provisions of Title 24, without a full public

comment period and complete rulemaking file. A change without regulatory effect may be undertaken at any time and does not need to coincide with or be a part of a triennial or intervening code adoption cycle.

The type of regulatory change allowed under Section 1-421 must be limited to editorial corrections and amendments that do not create new requirements for the public. See Section 1-421(c) for the complete listing of matters that may be performed under this authority as a change without regulatory effect.

Resources and Training

Here we will identify several sources for information, training and assistance that may be helpful when developing building standards and participating with the adoption cycle process.

Code Adoption Cycle Timeline: Once a code adoption cycle has been planned by the CBSC, a timeline identifying the cycle events is made available at the CBSC website (select the *Codes* tab; Code Adoption Cycle; Cycle Year; Timeline). The timeline shows critical dates, including the planned dates for Code Advisory Committee (CAC) meetings, public comment periods, and CBSC adoption meetings before the public, the planned publication date and planned effective date.

Websites: The following websites are referenced herein and may provide information and assistance when creating proposed building standards.

- Office of Administrative Law (OAL) <http://www.oal.ca.gov/>.
- California Buildings Standards Commission (CBSC) <http://www.bsc.ca.gov/>.
The CBSC website includes information on the rulemaking process. Read all information provided at *Processes* under the *Codes* tab.

OAL Authority and Training: Building standards for publication in Title 24, California Code of Regulations, are subject to oversight and approval of the California Building Standards Commission. Most all other Titles of the California Code of Regulations are

subject to the requirements and approval of OAL. OAL provides educational information regarding the rulemaking process and documents on its website. If you are new to the process of rulemaking you will benefit by reading the educational materials available at the OAL website. Additionally, OAL offers a 3-day training course on the rulemaking process. Details are available at the OAL website. Look for the OAL *Training* tab.

Educational Documents: The CBSC website provides the following educational documents that may be helpful when developing proposed building standards. All the following documents are available under our *Education* tab on our homepage.

- Guide to Title 24. This document provides information and illustrations on when, where and how Title 24 works and applies. This is a must read document for any person not already familiar with Title 24.
- Accessing State Laws Online. This document provides information and illustrations on how to find and use state laws online.
- Accessing State Regulations Online. This document provides information and illustrations on how to find and use the California Code of Regulations through the OAL website.
- Glossary of Terms. This document provides definitions and explanations of the many names and terms used in state laws and regulations relating to building standards.
- Frequently Asked Questions. This document provides answers and explanations to the frequently asked questions about Title 24, rulemaking, and matters relating to the development and use of Title 24.

These educational documents were developed with a focus on training the public and local government agencies, but they will also be informative to state agency personnel learning about Title 24, and proposing building standards.

Previous Rulemaking Examples: The CBSC website has the rulemaking documents from most previous code adoption cycles that were developed by the various state agencies. The documents may be used for reference. However, the CBSC templates (discussed below) provide the current format requirements. Please don't use previous

rulemaking documents to form new proposal documents in place of the CBSC templates. The CBSC provided templates are updated to reflect current requirements of law.

Forms, Templates and Checklists: There are rulemaking related forms, templates and checklists available at the CBSC's website. Look under *Publications*, then *Forms, Templates and Checklists*.

1. **Forms.** The CBSC website provides two forms needed when developing a rulemaking file.

Face Sheet Form BSC -1. This form is titled Building Standards Notice/Submission Face Sheet. It must accompany a rulemaking file submitted to the CBSC. It will also serve to guide the development of the rulemaking file. The CBSC will use this form to verify that all requirements for a received rulemaking file are satisfied.

Form STD 399. This form is titled Economic and Fiscal Impact Statement. The form may be completed online, and then printed for routing. There are references to the State Administrative Manual and state laws that must be consulted. When completed for submittal to the CBSC, it must include the signatures of the Agency Secretary and the Department of Finance. There is more information about this form later.

2. **Templates.** There are templates for the Express Terms, Notice of Proposed Action, Initial Statement of Reasons, and more.
3. **Checklists.** There are four checklists available on the CBSC website. These checklists are used by CBSC staff to review received rulemaking files to determine compliance with the APA and Article 4 of the CBSC regulations in Title 24, Part 1, Chapter 1. A proposing agency may use the checklists to verify that all requirements are satisfied before submittal to the CBSC. There is no requirement that a copy of the checklists be included with a rulemaking file

submitted to the CBSC. The checklists are merely to assist with the final assembly of your agency submittal.

Note: Should any of the templates, checklists or forms, conflict with the requirements of the laws and regulations referenced herein or otherwise applicable to the adoption of building standards, the law or regulation shall prevail. Please report such conflicts to the CBSC office at 916-263-0916, or via our email address cbsc@dgs.ca.gov .

CBSC Staff: Contact our office at 916-263-0916, any time help is needed with the development of a rulemaking file.

Rulemaking Document Format

Software: Written rulemaking documents that are not created using CBSC Forms or Templates, such as the Notice of Proposed Action, Express Terms, Initial Statement of Reasons, and more, shall be created and readable in MS Word, or otherwise the current state provided word processing software.

Note: To assist persons with disabilities who use reader software, it may be necessary to convert rulemaking documents to other forms such as PDF format, MS Word versions other than the current version, or a screen reader version.

Templates: As discussed previously, templates of several rulemaking documents are available at the CBSC's website.

Page size and orientation: All documents shall be created to allow printing on 8.5 inch by 11 inch paper and orientated in portrait layout. Landscape orientation may be used within documents as needed for tables, charts and illustrations. If an exception is needed, contact the CBSC office at 916-263-0916 and speak with appropriate staff.

Margins: Each page shall be created with the following margins:

Top: 0.7 inches

Bottom: 0.7 inches.

Left: 1.2 inches.

Right: 1.0 inches.

Exception: Or, as set in the CBSC templates.

Print Font: Titles and headings of documents shall be in Arial 12 bold point font print or as made available in the CBSC templates and forms. All other language of the documents shall be in Arial 11 point font print or as provided in the CBSC templates and forms. Bold print and italic print may be used to improve clarity.

Line Spacing: All text shall be spaced at 1.5, unless provided otherwise in the CBSC templates and forms.

Project Approach

To begin a project to propose building standards, follow the steps provided in this section and be sure to read and follow all cited references.

Step One. Create the Express Terms document using our Express Terms template available at the CSBC website. Be sure you have reviewed available information at the OAL and CBSC websites for creating an Express Terms document.

This step would include efforts to include public participation. Reference Section 1-403 of the CBSC regulations in Title 24, Part 1, Chapter 1, Article 4. Be sure to maintain a record of any meetings with the public, regulated industry, associations, and/or governmental agencies where the development of the proposed building standard was discussed. Keep a roster of attendees, agendas, and recordings or a written record of the discussions and any conclusions. The record of public participation should be referenced in and made an attachment to the Initial Statement of Reasons.

Step Two. Submit a copy of the Express Terms to the State Fire Marshal and request a letter for the rulemaking file stating:

1. The State Fire Marshal has reviewed the proposed building standards and found no fire and panic safety related requirements, or;
2. The State Fire Marshal has reviewed the proposed building standards and approves of provisions relating to fire and panic safety.

Reference: HSC Section 18930(a)(9). (part of the 9-point criteria)

Step Three. Create the Initial Statement of Reasons (ISOR) document. Use the template available on the CBSC website (discussed previously). This document must provide the public with the rationale for each proposed amendment, deletion, or additional requirement, on a section by section basis, including subsections.

Step Four. Create the Notice of Proposed Action (NOPA). Use our template available on the CBSC website (discussed previously). For proposing agencies [see definition in CBSCR Section 1-103(m)] there is required information about the public meeting that may be left blank until after review by the CBSC. The CBSC will establish the dates and locations for public meetings to consider the proposed building standard. The information may be placed on the Notice once the public meeting information is known.

State adopting agencies may complete the NOPA and submit it for approval of the hearing date, time and location (discussed previously).

Reference: HSC Sections 18935 and 18936.

Step Five. Complete required forms and obtain approval signatures.

1. Face Sheet using form BSC Form-1. This form is available on the BSC website under Forms, Templates and Checklists (discussed previously).
2. Form STD 399, Economic and Fiscal Impact Statement. This form is available at the CBSC website (discussed previously).

Note: The Form STD 399 requires the signatures of the proposing agencies Secretary, and Department Finance. This may require considerable time. Plus the Form STD 399 must be accompanied by the Express Terms and Initial

Statement of Reasons when routed for these approval signatures. It is advisable to plan for the time required to obtain the required signatures in the project timeline and start seeking the approvals as early as possible.

Note: The rulemaking file submitted to the CBSC may include the Form STD 399 unsigned, to be replaced by a signed original Form STD 399 during the code adoption cycle. At the CBSC public meeting to consider adoption, the rulemaking proposal will be disapproved unless there is a complete and signed Form STD 399 in the file.

Step Six. (For State Proposing Agencies) Submit the rulemaking file to the office of the CBSC as required by CBSCR Section 1-407. Use our checklist [Rulemaking File Approval Review Check List](#) available at the CBSC Website (discussed previously) as a reference. This checklist is used by CBSC staff to determine if the received rulemaking file is complete and ready to advance in the process. A proposing agency may also complete this checklist to assure file completion during development, and may include a copy in the rulemaking file submitted to the CBSC. It is not a requirement however.

Step Seven. (For State Adopting Agencies) Once building standards have been adopted, submit the entire rulemaking file to the office of the CBSC. The adoption will be placed on the agenda for the next CBSC public meeting to be considered for approval as meeting the requirements of the HSC and APA for rulemaking.

Again, call our office at 916-263-0916, any time you have questions regarding the development of proposed building standards.

Publication Process

Following the CBSC adoption or approval of new or amended building standards or the order to repeal building standards, the new or amended building standards must be

published for inclusion in the appropriate Parts of the California Building Standards Code, in Title 24, California Code of Regulations. When building standards are repealed, the remaining or adjacent building standards must be published in order that the repealed building standards are no longer included in the code. Publishing is performed by the model code organizations (ICC, IAPMO, NFPA via BNi Books) pursuant to contractual agreements with the CBSC.

Forms of Publication:

- 1. New Editions:** A Triennial Code Adoption Cycle is to result in the publication of a new edition of Title 24 in new binders. Pages are white in color. The Triennial code includes the adoption of new editions of the model codes.
- 2. Supplement to Current Editions:** When the current edition of Title 24 is amended by a CBSC adoption or approval a supplement is published. A supplement is printed on blue colored paper for insertion into the current edition of Title 24 and occurs for all of the following.
 - When new building standards are added.
 - When the current building standards are amended by either an Intervening Code Adoption Cycle action or by a “change without regulatory effect” pursuant to CBSCR Section 1-421, or by an emergency adoption.
 - When the current edition of Title 24 provisions are repealed. The page or pages containing the repealed building standards, and possibly the adjacent pages impacted by the repeal must be published in order to remove the repealed building standards and maintain the continuity of the remaining building standards.
- 3. Errata to Current Editions:** When the current edition of Title 24 is amended by a correction of an error an errata is published on buff colored paper for inclusion in Title 24.

The Publishers: The publication of Title 24 building standards is performed by the model code organizations; International Code Council (ICC), International Association of Plumbing and Mechanical Officials (IAPMO), and BNi on behalf of the National Fire Protection Association (NFPA), in accordance with negotiated contracts with the CBSC. The publishers may sell the Parts of Title 24 to the public. The following table lists the publishers for each Part of Title 24.

Part Number and Name	Contract Publisher
1. California Administrative Code	ICC
2. California Building Code	ICC
2.5. California Residential Code	ICC
3. California Electrical Code	BNi/NFPA
4. California Mechanical Code	IAPMO
5. California Plumbing Code	IAPMO
6. California Energy Code	ICC
7. vacant	
8. California Historical Building Code	ICC
9. California Fire Code	ICC
10. California Existing Building Code	ICC
11. California Green Building Standards Code (CALGreen)	ICC
12. California Referenced Standards Code	ICC

Review of Publisher Proofs: Generally the publishers will provide the CBSC three proofs of the code to be published. When the CBSC office receives the proofs, each of the involved state adopting and proposing agency staff representatives will be contacted and advised that the proofs are available for review. At this point in the process, time is critical and the agencies much act promptly to complete the review of each provided proof.